

COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD
REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION

9 VAC 5 CHAPTER 50.
NEW AND MODIFIED STATIONARY SOURCES.

PART II.
Emission Standards.

ARTICLE 4.
Standards of Performance For Stationary Sources (Rule 5-4).

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9 VAC 5-50-240. Applicability and designation of affected facility.

A. The affected facilities in stationary sources to which the provisions of this article apply are facilities that emit or cause air pollution.

B. The provisions of this article apply throughout the Commonwealth of Virginia.

C. The provisions of this article apply only to affected facilities subject to the new source review program.

9 VAC 5-50-250. Definitions.

A. For the purpose of the Regulations for the Control and Abatement of Air

Pollution and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Best available control technology" means a standard of performance (including a visible emission standard) based on the maximum degree of emission reduction for any pollutant which would be emitted from any proposed stationary source which the board, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for such source through the application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard in Article 5 (9 VAC 5-50-400 et seq.) of this chapter or Article 1 (9 VAC 5-60-60 et seq.) of Part II of 9 VAC 5 Chapter 60. If the board determines that technological or economic limitations on the application of measurement methodology to particular emissions unit would make the imposition of an emission standard infeasible, a design, equipment, work practice, operational standard, or combination of them, may be prescribed instead of requiring the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results. In determining best available control technology for stationary sources subject to Article 6 (9 VAC 5-80-1100 et seq.) of Part II of 9 VAC 5 Chapter 80, consideration shall be given to the nature and amount of the new emissions, emission control efficiencies achieved in the industry for the source type, and the cost-effectiveness of the incremental emission reduction achieved.

"Lowest achievable emission rate" means for any source, the more stringent rate of emissions based on the following:

1. The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner of the proposed stationary source demonstrates that such limitations are not achievable; or

2. The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

"New source review program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of 9 VAC 5 Chapter 80.

9 VAC 5-50-260. Standard for stationary sources.

A. No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A stationary source shall apply best available control technology for each regulated pollutant that it would have the potential to emit in amounts equal to or greater than the levels in 9 VAC 5-80-1320 C.

C. A modification shall apply best available control technology for each regulated pollutant for which it would result in a net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur in amounts equal to or greater than the levels in 9 VAC 5-80-1320 D as a result of physical change or change in the method of operation in the unit.

D. For phased construction projects, the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

9 VAC 5-50-270. Standard for major stationary sources (nonattainment areas).

A. For major stationary sources located in nonattainment areas, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from the lowest achievable emission rate, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A major stationary source shall apply lowest achievable emission rate for each qualifying pollutant that it would emit.

C. A major modification shall apply the lowest achievable emission rate to each new or modified emission unit which would increase the emissions of a qualifying pollutant.

D. In the case of a reconstruction, the determination of lowest achievable emission rate shall take into account any economic or technical limitations on compliance with applicable standards of performance (as specified in Article 5 (9 VAC 5-50-400 et seq.) of this chapter) which are inherent in the proposed replacements.

E. For phased construction projects, the determination of lowest achievable emission rate shall be reviewed, and modified as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of lowest achievable emission rate for the source.

9 VAC 5-50-280. Standard for major stationary sources (prevention of significant deterioration areas).

A. For major stationary sources located in prevention of significant deterioration areas, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A major stationary source shall apply best available control technology for each pollutant subject to regulation under the federal Clean Air Act that it would have the potential to emit in significant amounts.

C. A major modification shall apply best available control technology for each pollutant subject to regulation under the federal Clean Air Act for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of physical change or change in the method of operation in the unit.

D. For phased construction projects, the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

9 VAC 5-50-290. Standard for visible emissions.

The provisions of Article 1 (9 VAC 5-50-60 et seq.) of this chapter (Emission Standards of Performance for Visible Emissions and Fugitive Dust/Emissions, Rule 5-1) apply.

9 VAC 5-50-300. Standard for fugitive dust/emissions.

The provisions of Article 1 (9 VAC 5-50-60 et seq.) of this chapter (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 5-1) apply.

9 VAC 5-50-310. Standard for odor.

The provisions of Article 2 (9 VAC 5-50-130 et seq.) of this chapter (Emission Standards for Odor, Rule 5-2) apply.

9 VAC 5-50-320. Standard for toxic pollutants.

The provisions of Article 5 (9 VAC 5-60-300 et seq.) of 9 VAC 5 Chapter 60 (Emission Standards for Toxic Pollutants from New and Modified Sources, Rule 6-5) apply.

9 VAC 5-50-330. Compliance.

A. The provisions of 9 VAC 5-50-20 (Compliance) apply.

B. Nothing in this rule is intended to relieve any owner or other person from complying with any applicable standards or requirements contained in this part or other parts.

9 VAC 5-50-340. Test methods and procedures.

The provisions of 9 VAC 5-50-30 (Emission Testing) apply.

9 VAC 5-50-350. Monitoring.

The provisions of 9 VAC 5-50-40 (Monitoring) apply.

9 VAC 5-50-360. Notification, records and reporting.

The provisions of 9 VAC 5-50-50 (Notification, Records and Reporting) apply.

9 VAC 5-50-370. Registration.

The provisions of 9 VAC 5-20-160 (Registration) apply.

9 VAC 5-50-380. Facility and control equipment maintenance or malfunction.

The provisions of 9 VAC 5-20-180 (Facility and Control Equipment Maintenance or Malfunction) apply.

9 VAC 5-50-390. Permits.

A permit may be required prior to beginning any of the activities specified below if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. Operation of a facility.

HISTORICAL NOTES:

Derived from: Rule 5-4 of Part V of VR 120-01 (§ 120-05-0401 through § 120-05-0416)

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